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AD HOC COMMITTEE ON THE ESTABLISHMENT
OF AN INTERNATIONAL CRIMINAL COURT
3-13 April and 14-25 August 1995

DRAFT REPORT OF THE AD HOC COMMITTEE

Rapporteur: Ms. Kuniko SAEKI (Japan)

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I. INTRODUCTION

1. The Ad Hoc Committee on the Establishment of an International Criminal Court met at United Nations Headquarters from 3 to 13 April and from 14 to 25 August 1995, in accordance with General Assembly resolution 49/53 of 9 December 1994.

2. Under paragraph 2 of that resolution, the Ad Hoc Committee was open to all States Members of the United Nations or members of the specialized agencies. 1/

3. The session was opened by Mr. Hans Corell, Under-Secretary-General, the Legal Counsel, who represented the Secretary-General and made an introductory statement.

4. Ms. Jacqueline Dauchy, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Ad Hoc Committee; Mr. Andronico O. Adede, Deputy Director (Codification Division, Office of Legal Affairs), acted as Deputy Secretary; and Ms. Mahnoush Arsanjani and Ms. Sachiko Kuwabara-Yamamoto, Senior Legal Officers, Ms. Virginia Morris and Ms. Darlene Prescott, Associate Legal Officers (Codification Division, Office of Legal Affairs), acted as assistant secretaries.

5. At its 1st meeting, on 3 April 1995, the Ad Hoc Committee elected its Bureau, as follows:

Chairman: Mr. Adriaan Bos (Netherlands)

Vice-Chairmen: Mr. Cherif Bassiouni (Egypt)
Mrs. Silvia A. Fernandez de Gurmendi (Argentina)
Mr. Marek Madej (Poland)

Rapporteur: Ms. Kuniko Saeki (Japan)

6. Also at its 1st meeting, the Ad Hoc Committee adopted the following agenda (A/AC.244/L.1):

1. Opening of the session.

2. Election of officers.

3. Adoption of the agenda.

4. Organization of work.

5. Review of the major substantive and administrative issues arising out of the draft statute for an international criminal court prepared by the International Law Commission and consideration, in the light of that review, of arrangements for the convening of an international conference of plenipotentiaries.

6. Adoption of the report.

7. The Ad Hoc Committee had before it, in addition to the draft statute adopted by the International Law Commission at its forty-sixth session, 2/ the relevant chapter of the topical summary of the discussion held in the Sixth Committee of the General Assembly during its forty-ninth session (A/CN.4/464/Add.1), the comments received pursuant to paragraph 4 of General Assembly resolution 49/53 on the establishment of an international criminal court (A/AC.244/1 and Add.1-4) 3/ and a report submitted by the Secretary-General pursuant to paragraph 5 of that resolution, on provisional estimates of the staffing, structure and costs of the establishment and operation of an international criminal court (A/AC.244/L.2). It also had before it a number of informal papers.

8. In accordance with its mandate, the Ad Hoc Committee conducted its work in two phases.

9. In a first phase (3-13 April and 14-25 August 1995), the Ad Hoc Committee conducted a review of the major substantive and administrative issues arising out of the draft statute for an international criminal court prepared by the International Law Commission. During that phase, the Ad Hoc Committee established an open-ended Working Group chaired by Mr. Gerhard Hafner (Austria) and entrusted it with the preparation of an informal paper on methods of proceedings (due process). The Ad Hoc Committee agreed to include the paper it received from the Working Group in its report (see paras. ... below), as an extremely useful basis for further discussion. It subsequently instructed the Working Group to prepare schedules for the consideration of: (a) the question of the relationship between States Parties, non-States Parties and the international criminal court; and (b) the question of general rules of criminal law. Both questions were considered by the Ad Hoc Committee on the basis of the schedule prepared by the Working Group. The schedules are annexed to the report.

10. The outcome of the first phase of the proceedings is reflected in section II below.

11. In the second phase of its proceedings, the Ad Hoc Committee considered, in the light of its review of the major substantive and administrative issues arising out of the draft prepared by the International Law Commission, arrangements for the convening of an international conference of plenipotentiaries. The outcome of this phase of the proceedings is reflected in section III of the present report.

Notes

1/ For the membership of the Ad Hoc Committee at its first session, see A/AC.244/INF/1 and Add.1 and A/AC.244/INF/2.

2/ Official Records of the General Assembly, Forty-ninth Session, Supplement No. 10 (A/49/10), chap. II.B.I; and A/49/355.

3/ Comments were received from: Azerbaijan, Barbados, Belarus, China, Cyprus, Czech Republic, France, Libyan Arab Jamahiriya, Singapore, Sudan, Sweden, Switzerland, Trinidad and Tobago, United States of America and Venezuela, as well as from the Crime Prevention and Criminal Justice Branch and the United Nations International Drug Control Programme and from the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.